IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 799 (M/S) of 2006

Nisar s/o Ibrahim

R/o vill. & Post-Imlikhera, Dharanpur,

Tehsil-Roorkee, District Haridwar. .....Petitioner

Versus

1. Deputy Director, Consolidation/Upper Collector, District Haridwar
2. Assistant Settlement Officer, Consolidation, roorkee, District –Haridwar.
3. Hasmat s/o Ibrahi

   R/o Vill & post-Imlikhera, Dhrampur,

   Tehsil- Roorkee, District Haridwar. ..... Respondents

Counsel for the Petitioner Sri Parikshit Saini,

Standing Counsel for the respondents.

Dated 27.6.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 9.3.2006 passed by the respondent no.1 in revision no. 537 of 2002-03.

Briefly stated, proceedings for the mutation were started. However the Consolidation Officer decided the

matter exparte on 30.31991. The petitioner preferred a recall application for recalling of the exparte order. The application was allowed on the cost of Rs. 20-00. The petitioner has preferred an appeal on 28.3.1994, the appeal was dismissed on behalf on 3.9.2003.

Revision was preferred by the petitioner, the same was dismissed on 9.3.2006 on the ground that no restoration application has been filed before the appellate Court while it was dismissed for default on 3.9.2003.

In view of the aforesaid observation passed by the revisional Court, the matter is sent back to the appellate Court for deciding the appeal on merits.

The writ petition therefore, is disposed of, directing the appellate Court/respondent no.2 to dispose of the appeal on merits.

Subject the payment of entire costs awarded against the petitioner, the appeal is directed be heard on merits alongwith the costs of Rs. 1,000/- for the present writ petition which shall be payable to the respondent-caveator.

The writ petition is accordingly disposed of. No order as to costs.

Dated 27.6.2006 (Rajesh Tandon, J.)